

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RAFIC SAADEH,

Plaintiff,

-v-

MICHAEL KAGAN, et al.,

Defendant.

20 Civ. 1945 (PAE) (SN)

ORDER

PAUL A. ENGELMAYER, District Judge:

Currently pending is plaintiff Rafic Saadeh's ("Saadeh") motion for default judgment against the estate of Irving Kagan (the "Estate") and Kagan's sons, Michael and Joshua Kagan, to recoup a \$130,000 unpaid loan Saadeh made to Irving Kagan. Before the Court is the July 20, 2021 Report and Recommendation of the Hon. Sarah Netburn, United States Magistrate Judge, recommending that the Court award Saadeh \$136,368.22, plus pre- and post-judgment interest to be calculated at the relevant statutory rates. Dkt. 109 ("Report"). The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts this recommendation.

DISCUSSION

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Ruiz v. Citibank, NA.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y.

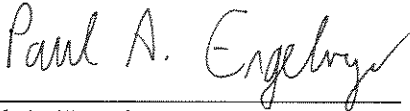
Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Netburn's thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that failure to object within fourteen (14) days will result in a waiver of objections and will preclude appellate review, Report at 13, the parties' failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

CONCLUSION

For the foregoing reasons, the Court grants the motion for damages and costs in the amount of \$136,368.22, plus pre-judgment statutory interest at an annual rate of nine percent, to be calculated on the full amount owed pursuant to the Loan Agreement, or \$136,368.22, from the date of accrual to the date of the entry of final judgment, and post-judgment interest pursuant to the statutory rate set forth in 28 U.S.C. § 1961(a). The Court respectfully directs the Clerk to mail a copy of this decision to plaintiff at the address on file.

SO ORDERED.



Paul A. Engelmayer
United States District Judge

Dated: August 16, 2021
New York, New York